

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DANIEL DAUWALDER,
Plaintiff,
v.
J. ATHERTON, et al.,
Defendants.

Case No.: 1:24-cv-00523-JLT-SKO

**ORDER TO SHOW CAUSE IN WRITING
WHY SANCTIONS SHOULD NOT BE
IMPOSED FOR PLAINTIFF'S FAILURE
TO FILE AN OPPOSITION OR NON-
OPPOSITION TO DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT**

14-DAY RESPONSE DEADLINE

Plaintiff Daniel Dauwalder is proceeding pro se in this civil rights action pursuant to 42 U.S.C. section 1983. The action proceeds on Plaintiff's Eighth Amendment claims: excessive force against Defendants Atherton and Perez and deliberate indifference to serious medical needs against Defendants Davydov and Garmendia

I. INTRODUCTION

On October 20, 2025, Defendants filed a summary judgment motion addressing the merits of Plaintiff's claim. (Doc. 35.)

Although more than 21 days have passed, Plaintiff has failed to file an opposition or statement of non-opposition to Defendants' summary judgment motion.

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1 **II. DISCUSSION**

2 Rule 56 of the Federal Rules of Civil Procedure concerns summary judgment. It provides,
3 in relevant part:

4 **Failure to Properly Support of Address a Fact.** If a party fails to
5 properly support an assertion of fact or fails to properly address
6 another party’s assertion of fact as required by Rule 56(c), the court
may:

- 7 (1) give an opportunity to properly support or address the fact;
8 (2) consider the fact undisputed for purposes of the motion;
9 (3) grant summary judgment if the motion and supporting
10 materials—including the facts considered undisputed—show
that the movant is entitled to it; or
11 (4) issue any other appropriate order.

12 Fed. R. Civ. P. 56(e). This Court’s Local Rules, corresponding with Federal Rule of Civil
13 Procedure 11, provide that a “[f]ailure of counsel or of a party to comply with these Rules or with
14 any order of the Court may be grounds for the imposition by the Court of any and all sanctions
15 authorized by statute or Rule or within the inherent power of the Court.” *See* Local Rule 110.

16 Further, Local Rule 230 states:

17 Opposition, if any, to the granting of a motion shall be served and
18 filed by the responding party not more than twenty-one (21) days
19 after the date of service of the motion. A responding party who has
no opposition to the granting of the motion shall serve and file a
20 statement to that effect, specifically designating the motion in
question. Failure of the responding party to file an opposition or
21 statement of no opposition may be deemed a waiver of any
opposition to the granting of the motion and may result in the
imposition of sanctions.

22 Local Rule 230(l). Therefore, Plaintiff’s opposition or statement of non-opposition to Defendant’s
23 pending motion for summary judgment was due on or before November 10, 2025, plus time for
24 mailing. To date, Plaintiff has failed to timely file an opposition or statement of non-opposition,
25 and the time to do so has now passed.

26 **III. CONCLUSION AND ORDER**

27 Accordingly, the Court **ORDERS** Plaintiff to show cause in writing, **within 14 days** of
28 the date of service of this order, why sanctions should not be imposed for his failure to comply

1 with the Local Rules. Alternatively, within that same time, Plaintiff may file an opposition or
2 statement of non-opposition to Defendants' motion for summary judgment filed October 20,
3 2025.

4 **Plaintiff is advised that a failure to respond to this Order may result in a**
5 **recommendation that this action be dismissed for a failure to obey court orders and a**
6 **failure to prosecute. Alternatively, a failure to respond to this Order may result in the Court**
7 **considering Defendants' motion for summary judgment to be unopposed.**

8 IT IS SO ORDERED.
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10 Dated: **November 17, 2025**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE